

Appl. No. 09/891,845
Amdt. Dated July 14, 2005
Reply to Office Action of 4/19/05

Docket No. CM04520H
Customer No. 22917

REMARKS/ARGUMENTS

Specification Objections

The examiner has objected to the abstract of the disclosure because it exceeds 150 words. The examiner has requested appropriate correction. Applicant has amended the abstract to mirror the allowed claims and, as such, the amended abstract is less than 150 words.

The disclosure was objected to because a Brief Summary of the Invention is missing. The examiner has requested appropriate correction. Applicants maintain that a summary of the invention is neither statutorily required by Title 35 of the United States Code nor administratively required by Title 37 of the Code of Federal Regulations. In particular, 35 USC §111 requires a specification, a drawing, and an oath and does not require a summary of the invention. Regarding 37 CFR 1.73, the term "should", as opposed to "shall" or "must" is an expression of a non-mandatory preference for an action or stated requirement. In other words, when the Applicants are required to provide particular subject matter in the application, the Code of Federal Regulations *clearly* states that such subject matter "must" or "shall" be included. See, e.g., 37 CFR §1.71 ("specification must include a written description") (emphasis added); 37 CFR §2.74 ("there shall be a brief description of the several views of the drawings") (emphasis added). In further support of Applicants' assertion, Applicants refer the examiner to the *Official Gazette* notice page 1190 OG 74, Sept. 17, 1996, (Response to Comment 17) which specifically states, "Section 1.77 is permissive rather than mandatory." Given the USPTO's own official comment on what is meant by the term "should", Applicants contend that a "Summary of the Invention" is not required.

Allowable Subject Matter

Claims 1-18 are pending in this application and Claims 12-16 are allowed. To move the application toward allowance, Applicant has amended all the claims to depend upon allowed independent Claim 12. Further, two new claims have been added, namely Claims 17 and 18. Support for new Claim 17 is found on page 11 line 3 and page 12 line 14 of Applicant's specification. Support for new Claim 18 is found in the third full paragraph on page 9. Thus, no new matter is added by the new claims.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants. No amendment made was

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related to the statutory requirements of patentability. No amendment made was for the purpose of narrowing the scope of any claim.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

SEND CORRESPONDENCE TO:

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Attachments